

QUINN EMANUEL URQUHART & SULLIVAN, LLP

Kevin Teruya (Bar No. 235916)
kevinteruya@quinnemanuel.com
865 South Figueroa Street, 10th Floor
Los Angeles, CA 90017
(213) 443-3000

HAGENS BERMAN SOBOL SHAPIRO LLP

Shana E. Scarlett (Bar No. 217895)
shanas@hbsslaw.com
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
(510) 725-3000

Interim Co-Lead Consumer Class Counsel

[Additional counsel listed on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MAXIMILIAN KLEIN, et al.,

Plaintiffs,

vs.

META PLATFORMS, INC.,

Defendant.

This Document Relates To: All Actions

Consolidated Case No. 3:20-cv-08570-JD

**DECLARATION OF RACHEL BANKS
KUPCHO IN SUPPORT OF CONSUMER
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION AND APPOINTMENT
OF CLASS COUNSEL**

The Hon. James Donato

Hearing Date: Dec. 14, 2023 at 10:00 a.m.

1 I, Rachel Banks Kupcho, declare as follows:

2 1. I make this declaration of my own personal, firsthand knowledge, and if called and
3 sworn as a witness, I could and would competently testify as follows.

4 2. I am a named plaintiff and proposed Class Representative of the proposed Consumer
5 Class in this class action brought pursuant to Federal Rule of Civil Procedure 23.

6 3. I first created my Facebook profile in 2008. I have continued to maintain and use
7 my Facebook account, and I have done so since December 3, 2016. I therefore understand that I am
8 a member of the proposed Consumer Class, which I understand consists of:

9 All persons in the United States who maintained and used a Facebook profile at any
10 point from December 3, 2016 to December 3, 2020. Excluded from the Class are:
11 (1) Defendant Meta Platforms, Inc. ("Meta"), any entity in which Meta has an
12 interest, any of Meta's corporate parents, affiliates, subsidiaries, officers, directors,
13 legal representatives, successors and assigns; (2) any judge, justice, or judicial
14 officer presiding over this matter and the members of their immediate families and
15 judicial staff; and (3) any juror assigned to this action.

16 4. I understand that I have paid for my use of Facebook with my data and that Facebook
17 collects and uses my data through my use and maintenance of my Facebook account.

18 5. I believe that, because of Facebook's anticompetitive conduct, I paid
19 supracompetitive prices to use Facebook. I seek to recover treble damages, declaratory, injunctive
20 and equitable relief, and costs of suit, including reasonable attorneys' fees, on behalf of myself and
21 all others similarly situated.

22 6. I believe that my claims are typical of those of the Consumer Class because the legal
23 claims the Consumer Class and I assert are the same, they are against the same defendant
24 (Facebook), they are based on the same conduct (Facebook's deception regarding its data collection
25 and use practices), and they result in the same injury (all Consumer Class members and I paying
26 Facebook supracompetitive prices).

27 7. I am not aware of any facts that would limit my ability to adequately represent the
28 interest of other class members of the Consumer Class, or of any conflicts that would make my
interests antagonistic to those of other members of the Consumer Class. I have not been promised
any compensation for bringing this case and serving as a class representative.

1 8. I understand I have a duty to protect the interests of the Consumer Class. I have done
2 so to date, and I am committed to continuing to protect the best interests of Consumer Class members
3 and working with my lawyers to obtain a successful outcome for the Consumer Class.

4 9. I further understand I have a duty to participate actively in the prosecution of this
5 action. I have done so for more than two years. I have discussed this matter with my lawyers on
6 many different occasions as part of regular check-ins about the case and in response to different
7 developments. I have reviewed pleadings before they were filed and have responded to numerous
8 written discovery requests from Facebook, including multiple sets of document requests,
9 interrogatories and requests for admission. I sat for a deposition in this case on May 22, 2023. I
10 also worked with my lawyers and a forensics vendor to, on multiple occasions, collect thousands of
11 documents from within my files and devices in response to Facebook's burdensome document
12 requests.

13 10. I have and will continue to do what is necessary to protect the interests of members
14 of the Consumer Class. I will continue to remain apprised of the developments in this case and to
15 confer with my attorneys on a regular basis.

16 11. I have also retained lawyers who are well-versed in antitrust cases and class actions.
17 I understand that Mr. Teruya, Ms. Scarlett, and their firms have dedicated considerable time and
18 resources to advancing my and the Consumer Class's claims in this case. If Mr. Teruya and Ms.
19 Scarlett are appointed as Co-Lead Consumer Class Counsel, I am confident that they will continue
20 to do an excellent job representing me and the Consumer Class going forward.

21 12. Based on the foregoing, I respectfully request that the Court grant Consumer
22 Plaintiffs' Motion for Class Certification and Appointment of Class Counsel, appoint me as a Class
23 Representative of the Consumer Class, and appoint Mr. Teruya and Ms. Scarlett as Co-Lead
24 Consumer Class Counsel.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

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4 Executed on September 14, 2023 in Edina, Minnesota.

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6 By  DocuSigned by:
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